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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,068

03/22/2004

Manfred Kraus

KRAUS

1525

20151

7590

07/25/2006

HENRY M FEIEREISEN, LLC

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NEW YORK, NY 10118

EXAMINER

CHARLES, MARCUS

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,068

Applicant(s)

KRAUS ET AL.

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) 7-9, 11, 12 and 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03-22-2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first action with merit relating to application serial number 10/806,068 filed 03/33/2004. Claims 1-19 are currently pending.

Election/Restrictions

1. Claims 7-9, 11-12 and 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 06/26/06

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "damping member disposed between the base and the pivot arm" as in claim 1, must be shown or the feature(s) canceled from the claim(s). It should be noted that the damping member (14) is not between the base (22) the arm (9). In addition, if figure 8, is not identical to fig. 1, there then the elements of the claimed elected embodiments are not shown such as the spring urging the arm and the damping element, the base connected to the arm etc. the base (22) of figure 1 is different from the base (3) of (fig. 8) The elected No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: it is not clear as to the difference between the base (2) and the base (22).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase in particular render the claims indefinite because: a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation a traction member, and the claim also recites in particular a belt, which is the narrower statement of the range/limitation.

In claim 2, it is not clear as to what is being referred to as "a drive". In addition claim 2 is confusing as to what is being claimed because it is no clear if the traction drive in claim 1 is the same as in claim 2. It is also unclear if the traction drive is positively claimed because in claim 1, the traction drive is functionally recited and in claim 2, the traction drive is positively recited.

Claims 3-4 are confusing because claim 1 claims a control unit for controlling the effective length of the actuator and claim 3 recites an electronic system for controlling the actuator and claim 4 recites the electronic system controls the effective length of the actuator. Therefore, it is not clear as to the difference between the control unit and the electronic system.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1, is rejected under 35 U.S.C. 102(b) as being anticipated by Molly (4,571,223) discloses a tensioner comprising a base (34) swingably mounted to a machine part (18/16) for rotation about a pivot axis (24) and supporting a tensioner arm (14), a tension roller mounted to the distal end of the tensioner arm and bearing against a traction member (10), an actuator (32) for rotating the base (34) about the pivot (24) to thereby adjust the tensioning of the belt (10).

In claim 14, not the actuator (32) is connected to the base at an attachment point (44) at a distance from the pivot and the tensioning roller defines a rotation axis (28) at a distance from a symmetry axis of the base.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molly in view of Yasuhara et al. (6,478,701). Molly fails to disclose the actuator has a connecting rod having an end secured to a base (108) and further includes a control system (114) having a sensor. Yasuhara et al. discloses a tensioner having an actuator (110) for rotating the tensioning arm of a tensioner, wherein the actuator includes at least one sensor (15/16) to effectively adjust the amount of displacement of the tensioner pulley such that the ratio of the rotational speed of the engine correspond to the travel speed of the belt is a predetermined ratio. Therefore, it would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Molly to include the limitation of Yasuhara et al. to effectively adjust the amount of displacement of the tensioner pulley such that the ratio of the rotational speed of the engine correspond to the travel speed of the belt is a predetermined ratio.

11. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fig. 21 of Yasuhara et al. (6,478,701) in view JP (60-19850). Yasuhara et al. (fig. 21) discloses a tensioner comprising a base (417) connected to a pivot arm (406) which has a free end accommodating a tension roller (403); a spring (414) urging the arm to force the roller to engaged a belt (102); a damping member (436) connected to the arm and the base; a pivot bearing; a pivot bearing swingably supporting the base about an axis (405). Yasuhara et al. (fig. 21) also discloses an actuator (408) supporting the base for rotatating the arm (9) about the axis (405). Yasuhara et al. (fig. 21) do not disclose the actuator supporting the base on a machine part and the pivot bearing swingably supporting the base on a machine part. JP (60-19850) discloses an actuator (8) supporting a base (5) on a machine part (not labeled) and acting on the base (5) for rotating about the axis (4), a control unit (12) that inherently controls the effective length of the actuator. Therefore, it would ha been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Yasuhara et al. (fig. 21) so that the actuator supports the base on a machine part and acting on the base for rotation and the control unit controlling the effective length of the actuator in view of JP (60-19850) in order to effectively control the movement of the tensioner when under extremely heavy load and to control the sensitivity of the of the tensioning effect due to very slight movement of the belt thereby prevent belt slippage.

In claim 2, as understood, Yasuhara et al. inherently discloses the claimed Invention because it is inherent for a transmission to have a drive for a belt propelled starter generator.

In claims 3-4, as understood, it is inherent for the control unit to have electronic system and the it is apparent that the biasing force or length of the actuator to bias the belt depends of the biasing force for required for the belt due to the transmission torque, the speed of the pulley of the belt and the generator power etc.

In claim 5, it is apparent that the actuator is movable in at least two positions.

In claim 6, it is apparent that the position of the actuator is continuously adjustable.

In claim 10, Yasuhara et al. and JP (60-19850) disclose the claimed invention.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sakai et al (5,702,315), Kitamura et al. (6,953,407), Winklhofer (6,572,501), Hanafusa et al. (6,688,022), Kadama et al. (4,713,045), Sermersheim et al. (4,500,303) and Green (660,570) disclose a tensioner pivoting a rotating arm against a belt.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (571) 272-7101. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ridley Richard can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Marcus Charles
Primary Examiner
Art Unit 3682
July 19, 2006